

Service Date: November 9, 1993

DEPARTMENT OF PUBLIC SERVICE REGULATION
BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MONTANA

* * * * *

IN THE MATTER OF THE COMPLAINT OF)	UTILITY DIVISION
Gregory A. Beck,)	
)	DOCKET NO. 93.1.2
Complainant,)	
)	
-vs-)	
)	
Inmate Communications Corporation,)	ORDER NO. 5758
)	
Defendant.)	

FINAL ORDER

FINDINGS OF FACT

The Montana Public Service Commission (Commission) hereby issues the Final Order in the above entitled matter:

1. On January 20, 1993, Mr. Gregory A. Beck of Whitefish, Montana filed a Complaint against Inmate Communications Corporation, requesting the following relief:

a. A partial refund (totalling \$11.53) of the charges for three collect calls received by Mr. Beck in November, 1992 which were carried by Inmate Communications.

b. An order from the Commission requiring Inmate

Communications to restructure its rates to conform to the rates of PTI Communications (the Local Exchange Carrier in Whitefish).

c. Retroactive refunds to all other customers charged similar rates by Inmate Communications.

2. On August 30, 1993 Inmate Communications filed a Response to Mr. Beck's Complaint, stating:

a. Inmate Communications has provided a refund to Mr. Beck of the full amount requested, \$11.53.

b. Inmate Communications has restructured its rates, so that local calls are now billed at a flat rate of \$1.10, which is less than PTI's operator assisted local rates.

c. Mr. Beck's request for refunds to other customers is inappropriate and beyond the scope of relief which he may request.

DECISION

3. Inmate Communications does not have Commission approved Tariffs on file with the Montana Public Service Commission. Therefore, there are no Commission set limits on the telecommunications charges of Inmate Communications. However, as an "inmate calling provider", Inmate Communications must comply with appli-

cable Commission rules governing the provision of inmate calling services. The Commission's current rules (as amended June 25, 1993) require that on collect calls, the operator must receive a positive response from the called party, of a willingness to accept the charges, before the call is connected and charges are incurred. ARM 38.5.3440(2)(b). Commission rules do not require a quotation of rates in such circumstances, although for credit card calls, the caller must be informed that the operator service provider rates will apply and be given a toll-free number by which the customer can receive a free rate quotation. See ARM 38.5.3405(4). At the time of the calls in this case (November 1992), ARM 38.5.3340(1)(c) required that: "All alternative operator assisted calls must be preceded by disclosure of the name of the company handling the call and the charge for making the connection if requested." (emphasis added)

4. There is no information before the Commission indicating that Inmate Communications violated any Commission rule or Montana statute with respect to the three calls received by Mr. Beck in November of 1992.

5. The Response of Inmate Communications states that it has satisfied the Complaint, by sending Mr. Beck a refund in the full amount requested (\$11.53); and further, by restructuring its

rates so that local calls are billed at a flat rate which is less than the operator assisted rate charged by PTI Communications. The Response constitutes a "Statement of Satisfaction" pursuant to ARM 38.2.2106, to which Mr. Beck was required to respond in writing within 15 days. The Commission has received no written or other communication from Mr. Beck. The Commission holds that the Response of Inmate Communications constitutes sufficient satisfaction of the Complaint in this matter.

6. There is no information before this Commission indicating that Mr. Beck has any authority to represent other Inmate Communications' customers. Therefore, Mr. Beck has no legal authority or standing to request refunds for others. Other customers would have to request such relief individually in their own name, or jointly through counsel. Therefore, this portion of Mr. Beck's complaint is inappropriate and will be dismissed.

CONCLUSIONS OF LAW

1. The Montana Public Service Commission properly exercises jurisdiction over complaints involving regulated telecommunications services. §§ 69-3-101, 69-3-803(3) and 69-3-321, MCA.

2. Inmate Communications Corporation provides intrastate regulated telecommunications services within the state of Mon-

tana. § 69-3-803(3), MCA.

3. The PSC has provided adequate public notice herein and an opportunity to be heard, to all interested parties in this Docket. Montana Administrative Procedure Act, Title 2, Chapter 4, MCA.

4. Inmate Communications has adequately satisfied the Complaint by providing a refund of the full amount requested, and restructuring its rates for local collect calls. ARM 38.2.2106.

5. The Complainant lacks standing to request relief for other customers not parties to this proceeding, since he has no legal interest in their personal matters. ARM 38.2.2101.

ORDER

IT IS HEREBY ORDERED AS FOLLOWS:

With respect to the first two claims for relief (a refund and rate restructuring), the Complaint has been fully and adequately satisfied by Inmate Communications. Therefore, no further proceedings are necessary. The third claim for relief (refunds for other customers) is dismissed.

This Docket is closed.

DONE AND DATED this 2nd day of November, 1993 by a vote of 4-0.

BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION

BOB ANDERSON, Chairman

BOB ROWE, Vice Chairman

DAVE FISHER, Commissioner

NANCY MCCAFFREE, Commissioner

ATTEST:

Kathlene M. Anderson
Commission Secretary

(SEAL)

NOTE: Any interested party may request the Commission to reconsider this decision. A motion to reconsider must be filed within ten (10) days. See 38.2.4806, ARM.